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EXAMINER

PRENDERGAST, ROBERTA D

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2671

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/003,092

Applicant(s)

OSTERMANN ET AL.

Examiner

Roberta Prendergast

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title: *System And Method Of Customizing Animated Entities For Use In A Multi-Media Communication Application*, is not appropriate since a system is not being claimed.

The disclosure is objected to because of the following informalities: serial numbers of related applications are missing.

Appropriate correction is required.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The limitations "... the image file having associated sender-assigned name, gender, category and indexing information"(claim 1, lines 3-4), "wherein category information relates to whether the animated entity will be generally available or only available for the sender"(claim 2, lines 1-3), "... wherein gender information relates to a default gender of a voice associated with...."(claim 3, lines 1-2), "... presenting the sender with an option to choose textures for teeth, eyes, and a tongue"(claim 7, lines 2-3), "... presenting the sender with an option to choose different teeth from a group of teeth..."(claim 9, lines 2-3), "... presenting the sender with an option to choose aging effects..." (claim 10, lines 2-3), "... presenting the sender with an

Art Unit: 2671

option to modify the appearance of weight..."(claim 11, lines 2-3), "... presenting the sender with options to modify a texture of teeth, eyes, and/or tongue..."(claim 14, lines 3-4), "... presenting the sender with an option to modify a parameter associated with the appearance of weight ..." (claim 15, lines 3-4), "... providing the sender with options to control the position of each animated entity chosen..."(claim 19, lines 3-4), "... presenting the sender with an option to change a magnitude associated with each displayed facial expression..." (claim 22, lines 4-5), "... presenting the sender with an option to select a voice... and associating the selected voice with the animated entity..." (claim 25, lines 7-9), "... presenting the sender with an option to modify the default voice... and if the user selects a voice different from the default voice, associating the selected voice with the animated entity..." (claim 26, lines 7-10), "... presenting the sender with an option to zoom the image file... and if the user selects to zoom the image file, presenting the sender with a zoomed image file..." (claims 27 and 29, lines 4-6), "... presenting the sender with the following background choices... (1) a predefined background... (2) a background associated with the received image file... (3) if the sender selects to zoom the image file, the zoomed image file as the background" (claims 28, lines 3-11), "... presenting the sender with an option to select a predefined background..."(claim 30, lines 3-5), "... presenting the sender with an option to select a background associated with the received image file..."(claim 31, lines 3-5), "... presenting the sender with an option, ... , to choose the zoomed image file as the background..."(claim 32, lines 3-6).

Therefore, the subject matter in claims 1, 2, 3, 7, 9-11, 14, 15, 19, 22, and 25-32

Art Unit: 2671

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because element numbers do not match FIG. 9 element 64 is referred to as element 164 in specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

Art Unit: 2671

The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 recites the limitation "using the chosen weight by the sender, modifying the image file to increase or decrease the appearance of weight ...". There is insufficient antecedent basis for this limitation in the claim. A weight has not been chosen by the sender prior to the recitation of this limitation, changing the limitation to read, "modifying the image file to increase or decrease the appearance of weight ..." will be sufficient to reverse this rejection.

Art Unit: 2671

Claim 13 recites the limitations "if the user ..." in lines 5 and 8. There is insufficient antecedent basis for this limitation in the claim. Changing the limitations to read "if the sender ..." will be sufficient to reverse this rejection.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10001120 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int'l Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan, and Sato et al. U. S. Patent No. 5537662.

Referring to claim 1, copending Application No. 10001120 teaches receiving from the sender an image file to a server (claim 9, line 4), presenting to the sender the image file and requesting the sender to mark features on the

Art Unit: 2671

image file (claim 9, lines 5-6), presenting to the sender a preview of at least one expression associated with the marked image file (claim 9, lines 7-8), and if the sender accepts the image file after the preview, presenting again the image file as an optional animated entity when the sender chooses an animated entity to deliver a multi-media message (claim 9, lines 9-10), but does not teach wherein the image file has sender-assigned name, gender, category, and indexing information, a choice of a generic face model from a plurality of generic face model templates, presenting both the image file and generic face template to the sender and requesting the sender to mark features on the image file, and if the sender does not accept the image file after the preview, presenting again the image file and selected model template for the sender to redo or add marked features on the image file. Copending claim 9 further includes an image file having a background as well as an entity wherein the animated entity being presented includes the image file background. It would be obvious to one having ordinary skill in the art at the time the invention was made to remove an element or step if the remaining elements or steps operate in the same manner.

Ming Ouhyoung et al. discloses presenting to the sender both the image file and a generic face model template wherein the sender is instructed to mark the image file (figures 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor, page 25).

Sato et al. teaches wherein the image file has sender-assigned name (figures 34(A-C)), gender (figures 14 and 25), category (figures 9, 11-13, and 15), and indexing information (figures 21, 23, 26 and 27; column 11-12, lines 63-8,



Art Unit: 2671

the use of a register key and part pattern numbers is indexing information), presenting to the sender a choice of a generic face model template (figures 2, 4, 6, and 8), and further teaches wherein, if the sender does not accept the image file after the preview, presenting again the image file for the sender to redo or add marked features.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering a multi-media message from a sender to a receiver to include wherein the image file has sender-assigned name, gender, category, and indexing information, presenting to the sender a choice of a generic face model template from a plurality of face model templates, presenting to the sender both the image file and a generic face model template, and the option to redo or add marked features if the sender does not accept the image file after the preview because the motivation for modifying the method to include the use of sender-assigned gender and category information allows the server to present a choice of generic templates with these specific characteristics in order to reduce the possibly large number of generic face model templates being presented to the sender, the use of sender-assigned name and indexing information permits retrieval of the animated entities when stored in a searchable database and permits the display of personal information as well, presenting to the sender a choice of a generic face model template from a plurality of face model templates to allow the sender to select a unique face model template which more closely matches the image file and moves in response to reproduced sounds in a simple operation (Sato et al., column 2, lines

Art Unit: 2671

56-60), presenting to the sender both the image file and a generic face model template to allow the sender to edit the expression on the generic face template by dragging feature points on the face image file, and the option to redo or add marked features to the image file if the sender does not accept the image file after the preview allows for the correction of mistakes or the further enhancement of the image file.

Referring to claim 4, the rationale for claim 1 above is incorporated herein, copending Application No. 10001120, as modified above, teaches the method of creating an animated entity comprising presenting the image file and the selected generic face model template to the sender and requesting the sender to mark points on the image file but does not teach wherein requesting the sender to mark features on the image file further comprises instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template.

Ming Ouhyoung et al. discloses instructing the sender to mark feature points on the image file by indicating a corresponding point on the selected model template (figures 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor, page 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity to include instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template because modifying the method of creating an animated entity for delivering a multi-media

Art Unit: 2671

message from a sender to a receiver to include instructing the sender to mark feature points on the image file by indicating a corresponding point on the selected model template thereby allowing the adjustment of the feature points of the generic facial template to the proper position during editing of the expressions.

This is a provisional obviousness-type double patenting rejection.

Claims 5, 6, 12 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10001120 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan and Sato et al. U. S. Patent No. 5537662, as applied to claims 1 and 4 above, and further in view of H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000.

Referring to claim 5, the rationale for claim 4 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message comprising presenting the image file and the selected model template to the sender and instructing the sender to mark points on the image file by indicating a corresponding point on the generic face model template but does not teach wherein the corresponding points on the generic face model template are indicated by highlighting and further does not teach instructing the sender to

Art Unit: 2671

mark points until a threshold number of points on the image file have been marked.

H. Noot et al. teaches wherein points on a generic face model template are highlighted (H. Noot et al. Section 3.7.1 Elements of components, page 22, paragraphs 2, 3, and 4, points on the generic template are color coded).

Ming Ouhyoung et al. discloses instructing the sender to mark points until a threshold number of points on the image file has been marked by the sender (Section 2.1 Head model fitting, page 24).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message to include the use of highlighting to indicate a corresponding point on the generic face model template in order to visibly indicate a point to be marked on the image file to ensure accurate placement of feature points and to include instructing the sender to mark feature points on the image file by indicating a corresponding point on the selected model template until a minimal number of points on the image file have been marked to allow emotional expressions and to model speech.

Referring to claim 6, the rationale for claim 5 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message comprising instructing the sender to mark points on the image file corresponding to highlighted points on the selected model template until a threshold number of points on the image file have been marked by the sender but does not teach

Art Unit: 2671

presenting the sender an option to mark additional points wherein if the sender chooses to mark additional points, presenting the image file and the selected model template to the sender and instructing the sender to mark additional points on the image file corresponding to highlighted points on the selected model template until a maximum number of points on the image file have been marked by the sender.

H. Noot et al. teaches presenting the sender an option to mark additional points (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3), if the sender chooses to mark additional points, presenting the image file to the sender and instructing the sender to mark additional points on the image file until a maximum number of points on the image file have been marked by the sender (H. Noot et al., Section 3.7.6 User Defined Composite components, page 32, InsertControlPoints and InsertFixedPoints, it can be assumed that when the sender decides not to insert/mark additional points that a maximum number of points has been reached) and if the sender chooses not to mark additional points, continuing to the step of presenting a preview of the image file (see rationale for claim 1 for previewing image file).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message to include presenting to the sender an option to mark additional points for enhancing the visual portrayal of emotion and speech wherein, if the sender chooses to mark additional points,

Art Unit: 2671

presenting the image file to the sender and instructing the sender to mark additional points on the image file in order to realistically portray complex emotion and speech in animated entities and to further include instructing a sender to mark additional points until a maximum number of points on the image file has been marked to reduce processing time.

Referring to claim 12, the elements in claims 1, 4 and 5 above are recited in claim 12, therefore the same rejections apply, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message comprising instructing the sender to mark points on the image file by indicating highlighted corresponding points on the selected model template but does not specifically teach requesting the sender to mark features on the image file associated with features on the selected model template highlighted in succession.

H. Noot et al. teaches wherein features on the selected model template are highlighted in succession (Section 3.6.2 Global drawing options, page 17, DrawOptions/ShowSelection\_TestControl; Section 3.6.5 Intermezzo: component selection, page 19).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message to include requesting the sender to mark features on the image file associated with features on the selected model template highlighted in succession to allow the sender to accurately mark features on the image file in order to reduce the amount of

Art Unit: 2671

processing time required to correct feature marking errors and to allow the marking of features that may be too close to each other.

Referring to claim 13, the elements for claims 1 and 12 are found in claim 13, therefore the same rejections apply. It would further be obvious to one having ordinary skill in the art at the time the invention was made to remove an element or step (i.e. claim 1, elements associated with the generic facial model template) if the remaining elements or steps operate in the same manner.

This is a provisional obviousness-type double patenting rejection.

Claims 10, 11 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-18 of copending Application No. 10003350.

Although the conflicting claims are not identical, they are not patentably distinct from each other because presenting the sender with the option to choose aging effects associated with the animated entity and modifying the image file to increase or decrease the appearance of age of the image file according to the option chosen by the sender as in claim 10, presenting the sender with the option to modify the appearance of the weight of the animated entity according to the option chosen by the sender as in claim 11, and presenting the sender with options to modify a parameter associated with the appearance of weight for the image file as in claim 15 are all found in the copending application in claims 16-18. Copending claims 16-18 further disclose presenting the sender with options to modify a parameter associated with an eye color feature and a mouth

Art Unit: 2671

protrusion feature, it would be obvious to one having ordinary skill in the art at the time the invention was made to remove an element or step if the remaining elements or steps operate in the same manner.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 16, 17, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11, 16, 17, 20 and 23 of copending Application No. 10/003093 in view of Bickmore et al. U. S. Patent No. 6466213.

Referring to claim 16, copending Application No. 10/003093 teaches in copending claims 16, 17, and 23 a method of enabling a sender to create a multi-media message comprising an animated entity arranged to deliver a text message from the sender comprising providing the sender with an option to choose an animated entity from a group of animated entities ('093, claims 16 and 23) wherein the multi-media message is delivered to the recipient ('093, claims 16 and 17) but does not teach wherein the method comprises a dialog between at least two animated entities comprising wherein the sender is presented with an option to choose at least two animated entities to deliver respective portions of a text message to the recipient. Copending Application No. 10/003093 further teaches providing the sender with a group of customizable multi-media templates wherein each template includes predefined parameters comprising a predefined text message, a predefined animated entity, a predefined background,



Art Unit: 2671

predefined background music, and a predefined set of emoticons within the text of the message ('093, claim 16) and presenting the sender with an option to modify a camera position using camera control tags within the text. It would be obvious to one having ordinary skill in the art at the time the invention was made to remove an element or step if the remaining elements or steps operate in the same manner.

Bickmore et al. teaches wherein the method comprises a dialog between at least two animated entities comprising wherein the sender is presented with an option to choose at least two animated entities to deliver respective portions of a text message to the recipient (figures 14 and 15, the choice of a single animated entity is also given) and further teaches delivering the multi-media message wherein the chosen animated entities deliver respective portions of the text message according to a position in the text message of the indicator associated with the animated entity(column 9, lines 47-59; column 11, lines 12-24).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling a sender to create a multi-media message to a recipient to include a dialog between at least two animated entities comprising wherein the sender is presented with an option to choose at least two animated entities to deliver respective portions of a text message to the recipient because the use of multiple animated entities to represent different people or differing viewpoints offer a complimentary and more personalized narrative viewpoint of the multi-media message (Bickmore et al., column 2, lines 54-63). Further modifying the method of enabling a sender to

Art Unit: 2671

create a multi-media message to a recipient to include delivering the multi-media message wherein the chosen animated entities deliver respective portions of the text message according to a position in the text message of the indicator associated with the animated entity gives the sender the ability to synchronize animations and audio and provide customized presentations or to provide presentations custom tailored to each reader's needs (column 2, lines 28-46).

Referring to claim 17, the elements for claim 16 above are recited in claim 17, therefore the same rejection applies.

Referring to claim 19, the rationale for claims 16 and 17 above is incorporated herein, copending Application No. 100/003093, as modified above, teaches a method of enabling a sender to create a multi-media message to a recipient further comprising providing the sender with options to control the position of each animated entity chosen within the multi-media message (claim 11, lines 8-9 and claim 20, lines 1-4).

Copending Application No. 10/003093 further teaches presenting the sender with an option to insert the visible image tag into the sender text, such that when the visible image tag is inserted, the visible image tag, the sender text, and a position of the visible image tag with respect to the sender text is displayed (claim 11, lines 5-7) and after the sender inserts the visible image tag and the animated entity position tag, delivering the multi-media message with the images associated with the inserted visible image tag presented as background to the animated entity according to a position of the respective tag within the sender text (claim 11, lines 10-15). It would be obvious to one having ordinary skill in the

Art Unit: 2671

art at the time the invention was made to remove an element or step if the remaining elements or steps operate in the same manner.

This is a provisional obviousness-type double patenting rejection.

Claim 18 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16 and 27 of copending Application No. 10/003093 in view of copending Application No. 10/003350.

Referring to claim 18, the rationale for claims 16 and 17 above is incorporated herein, copending Application No. 100/003093, as modified above, teaches a method of enabling a sender to create a multi-media message to a recipient further comprising receiving in the text message sender emoticons (claims 16 and 27) and delivering the multi-media message containing the emoticons but does not teach wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message.

Copending Application No. 10/003350 teaches receiving in the text message sender emoticons and delivering the multi-media message wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message (claims 9, 12, and 26). Copending Application No. 10003350

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling a sender to create a multi-media message to a recipient comprised of receiving in the text

Art Unit: 2671

message sender emoticons to include delivering the multi-media message wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message because including emoticons in the text that has been associated with a most immediately preceding animated entity indicator implies that the emoticons have also been associated with a most immediately preceding animated entity indicator.

This is a provisional obviousness-type double patenting rejection.

Claims 20 and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10001120 in view of Mayle et al. U. S. Patent No. 6018774.

Referring to claim 20, copending Application No. 10001120 teaches a method of enabling sender customization of an animated entity for use in delivering a multi-media message over the Internet comprising receiving from the sender an image of an entity to be used as the animated entity (claim 9, line 4), requesting the sender to mark a plurality of facial features on the entity and receiving facial features marked by the sender (claim 9, lines 5-8) and computing a customized model associated with the entity (claim 9, lines 9-10) but does not teach storing the customized model in a private database for restricted access by the sender. Although, '1120 further teaches wherein the sender-selectable personal animated entity includes the image file background, it is obvious to

Art Unit: 2671

remove an element or step if the remaining elements or steps operate in the same manner.

Mayle et al. teaches receiving from the sender, over the Internet (figures 1-3; column 4, lines 9-11, 20-32, and 51-67), an image of an entity to be used as the animated entity (column 5, lines 1-1; column 7, lines 7-20; column 10, lines 35-45) and storing the customized model in a private database for restricted access by the sender (column 5, lines 19-31, 40-67 and column 6, lines 1-3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include storing the customized model in a private database for restricted access by the sender because modifying the method to include storing the customized model in a private database for restricted access by the sender would prevent the unauthorized use of personalized animated entities (column 2, lines 48-63).

Referring to claim 21, the rationale for claim 20 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message further comprising after computing the customized model associated with the entity, displaying at least one facial expression to the sender of the customized model (claim 9, lines 7-8).

This is a provisional obviousness-type double patenting rejection.

Claims 22-24 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10001120 in view of Mayle et al. U. S. Patent No. 6018774 as applied to claim 21 above and further in view of H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000.

Referring to claim 22, the rationale for claim 21 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message comprising after computing the customized model associated with the entity, displaying at least one facial expression to the sender of the customized model but does not teach after displaying at least one facial expression to the sender of the customized model, presenting the sender with an option to change a magnitude associated with each displayed facial expression.

H. Noot et al. teaches after displaying at least one facial expression to the sender of the customized model, presenting the sender with an option to change a magnitude associated with each displayed facial expression (Section 4.1. Using Face Player, page 35, paragraph 3; Section 5.1. Principle and usage of the Emotion Disc, pages 37-38; Section 7.4. Emotion Disc, page 55; Section 1.7. .dsc disc file, page 64; Plate 4, page 68).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message

Art Unit: 2671

to include after displaying at least one facial expression to the sender of the customized model, presenting the sender with an option to change a magnitude associated with each displayed facial expression to increase or decrease the intensity of the emotion being expressed.

Referring to claim 23, the rationale for claim 20 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message comprising requesting the sender to mark a plurality of facial features on the entity but does not specifically teach wherein requesting the sender to mark a plurality of facial features on the entity further comprises requesting the sender to mark facial features associated with eye corners, eyelids, nose, mouth corners, lip boundaries, and hair outline.

H. Noot et al., teaches wherein requesting the sender to mark a plurality of facial features on the entity further comprises requesting the sender to mark facial features associated with eye corners, eyelids, nose, mouth corners, lip boundaries, and hair outline (Section 3.6.6 Operations on components, page 20, figure 4; Section 3.7.2 Types of components, pages 23-25; Section 3. Appendix: Color Plates, pages 67-68, Plates 2.a, 2.b, 3.a and 3.b).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include wherein requesting the sender to mark a plurality of facial features on the entity further comprises requesting the sender to mark facial features

Art Unit: 2671

associated with eye corners, eyelids, nose, mouth corners, lip boundaries, and hair outline because marking facial features associated with eye corners, eyelids, nose, mouth corners, lip boundaries, and hair outline allows for the realistic portrayal of emotion and speech during animation of an animated entity.

Referring to claim 24, it recites the elements found in claim 20 therefore the same rejections to those elements apply, copending Application No. 10001120, as modified above, teaches a method of enabling sender customization of an animated entity for use in delivering a multi-media message but does not teach presenting a proof-animated entity to the sender based on the customized model.

H. Noot et al. teaches presenting a proof-animated entity to the sender based on the customized model (Section 4.2.1 Integrated mode and 4.2.2 Starting Face Player from Animation Editor, page 35).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include presenting a proof-animated entity to the sender based on the customized model to allow the sender to visually test how the delivery of the multi-media message by the animated entity will appear.

This is a provisional obviousness-type double patenting rejection.

Claim 25 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of



Art Unit: 2671

copending Application No. 10001120 in view of Sato et al. U. S. Patent No. 5537662.

Referring to claim 25, copending Application No. 10001120 teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from the sender an image file to a server (claim 9, line 4) and presenting to the sender the image file and requesting the sender to mark features on the image file (claim 9, lines 5-6) but does not teach wherein the image file has sender-assigned name, gender, category, and indexing information and presenting the sender with an option to select a voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message.

Sato et al. discloses a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising wherein name (figures 34(A-C)), gender (figures 14 and 25), category (figures 9, 11-13, and 15), and indexing information (figures 21, 23, 26 and 27; column 11-12, lines 63-8, the use of a register key and part pattern numbers is indexing information) are associated with an image file and presenting the sender with an option to select a voice for the animated entity and associating the voice with the animated entity for use in delivering the multi-media message (figure 17; column 9, lines 17-54).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include receiving from the sender an image of an entity to be used as the

Art Unit: 2671

animated entity wherein the image file contains sender-assigned name, gender, category and indexing information because modifying the method to include the use of sender-assigned gender and category information allows the server to present a choice of generic templates with these specific characteristics in order to reduce the possibly large number of generic face model templates being presented to the sender, the use of sender-assigned name and indexing information permits retrieval of the animated entities when stored in a searchable database and permits the display of personal information as well, and modifying the method to include presenting the sender with an option to select a voice for the animated entity and associating the voice with the animated entity for use in delivering the multi-media message allows the sender to convey the nationality, language, sex, and age of an animated entity.

This is a provisional obviousness-type double patenting rejection.

Claim 26 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10001120 in view of Sato et al. U. S. Patent No. 5537662, as applies to claim 25 above, and further in view of Grayson et al. U. S. Patent No. 5963217.

Referring to claim 26, the rationale for claim 25 above is incorporated herein, copending Application No. 10001120, as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from the sender an image file having

Art Unit: 2671

associated sender-assigned parameters and a default voice, presenting to the sender an image file and requesting the sender to mark features on the image file, as claimed above, but does not teach wherein the method includes presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message.

Grayson et al. teaches presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message (column 5, lines 46-58; columns 8-9, lines 55—2; column 9, lines 44-49).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message because modifying the default voice for the animated entity allows the sender to include an accent or emotions and associating the selected voice with the animated entity will allow the receiver to listen to the multi-media message without constant screening of the display and will make the message much more interesting (Grayson et al., column 10, lines 23-36).

This is a provisional obviousness-type double patenting rejection.

Claims 27-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 8-10 of copending Application No. 10001120 in view of H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000.

Referring to claim 27, copending Application No. 10001120 teaches a method of creating an animated entity for delivering a multi-media message from a sender to a receiver comprising receiving from the sender an image file, requesting the sender to mark features on the image file in preparation for creating an animated entity, and presenting the image file as an optional animated entity when the sender chooses an animated entity to deliver a multi-media message, see claims 1 and 8-10, but does not teach presenting the sender an option to zoom the image file wherein, if the sender selects to zoom the file, presenting the sender with a zoomed image file and requesting the sender mark features on the image file.

H. Noot et al. teaches presenting the sender an option to zoom the image file wherein, if the sender selects to zoom the file, presenting the sender with a zoomed image file, and requesting the sender to mark features on the image file in preparation for creating an animated entity (Section 3.1. The principle of creating faces with face editor, page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter staves, page 42, paragraph 6; Section 6.2.4

Art Unit: 2671

Creating a new animation, page 42-43; Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page 46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling a sender to create a multi-media message to a recipient to include presenting the sender an option to zoom the image file wherein, if the sender selects to zoom the file, presenting the sender with a zoomed image file, and requesting the sender to mark features on the image file in preparation for creating an animated entity because the use of zooming an image to ensure accurate placement of the feature points in an image file for refined editing (Section 6.2.3 Using the animation parameter staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43; Section 6.5 Editing an animation, page 46) is well known in the art.

Referring to claim 28, the rationale for claim 27 above is incorporated herein, copending Application No. 10001120 teaches a method of creating an animated entity for delivering a multi-media message from a sender to a receiver comprising receiving from the sender an image file wherein the image file has an entity and a background (claims 1 and 8-10) and presenting the image file as an optional animated entity further comprises presenting the sender with an option to include a background associated with the received image file (claim 10) but does not teach wherein presenting the image file as an optional animated entity comprises presenting the sender with the following background choices for the selected animated entity:

(1) a predefined background, wherein the animated entity is automatically scaled to fill the frame of the window in which it is presented;

(2) a background associated with the received image file, wherein the animated entity has the same size as in the image file; and

(3) if the sender selects to zoom the image file, the zoomed image file as the background, wherein the animated entity is presented with the size as given in the zoomed image file.

H. Noot et al. teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient and further discloses wherein presenting the image file as an optional animated entity comprises presenting the sender with the following background choices for the selected animated entity:

(1) a predefined background, wherein the animated entity is automatically scaled to fill the frame of the window in which it is presented (H. Noot et al. Section 3.1. The principle of creating faces with Face Editor, page 10, figure 2(row 2), and page 11, paragraph 1; Section 3.5. Components, drawing order and rank, page 13, figure 3 and final paragraph; page 70, plate 13; Section 3.6.3 Global drawing operations, page 18, paragraphs 6 and 7; Section 3.6.6 Operations on components, page 19, paragraph 5, and page 21, paragraphs 8-13; Section 3.7.3 Basic components, page 26-27, final paragraph; Section 3.8. Component editing, page 31, paragraph 7: DynamicScaleSpecs, page 32, paragraphs 7-10, and pages 33-34, final paragraph);

Art Unit: 2671

(2) a background associated with the received image file, wherein the animated entity has the same size as in the image file (Section 3.6.2 Global drawing options, page 16, paragraph 4, i.e. the size of the background image and the animated entity are unchanged from their original size); and

(3) if the sender selects to zoom the image file, the zoomed image file as the background, wherein the animated entity is presented with the size as given in the zoomed image file (Section 3.6.2 Global drawing options, page 16, paragraph 7, i.e. if the face file is zoomed, the background scenery is zoomed as well).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling a sender to create a multi-media message to a recipient to include wherein presenting the image file as an optional animated entity comprises presenting the sender with the following background choices for the selected animated entity:

(1) a predefined background, wherein the animated entity is automatically scaled to fill the frame of the window in which it is presented;

(2) a background associated with the received image file, wherein the animated entity has the same size as in the image file; and

(3) if the sender selects to zoom the image file, the zoomed image file as the background, wherein the animated entity is presented with the size as given in the zoomed image file, because presenting the sender with background choices for the selected animated entity to enhance the appearance of the multi-media message for artistic and aesthetic reasons is well known in the art.

Art Unit: 2671

Referring to claim 29, it recites the elements in claim 27 and therefore the same rejection applies.

Referring to claim 30, it recites the elements in claim 29 and the element numbered (1) in claim 28 and therefore the same rejections apply.

Referring to claim 31, it recites the elements in claim 30 and the element numbered (2) in claim 28 and therefore the same rejections apply.

Referring to claim 32, it recites the elements in claim 31 and the element numbered (2) in claim 28 and therefore the same rejections apply.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16, 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Bickmore et al. U. S. Patent No. 6466213.

Referring to claim 16, Bickmore discloses a method for enabling a sender to create a multi-media message to a recipient comprising a dialog between at least two animated entities arranged to deliver respective portions of a text message from the sender, the method comprising presenting the sender with an



Art Unit: 2671

option to choose at least two animated entities to deliver respective portions of a text message to the recipient (figures 14 and 15, the choice of a single animated entity is also given), the choice of which animated entity to deliver which portion of the text message being affected by the insertion in the text message of an indicator associated with the chosen animated entity (column 7, lines 44-46; column 9, lines 47-59), and delivering the multi-media message where the chosen animated entities deliver respective portions of the text message according to a position in the text message of the indicator associated with the animated entity(column 9, lines 47-59; column 11, lines 12-24).

Referring to claim 17, the rationale for claim 16 is incorporated herein, Bickmore discloses a method for enabling a sender to create a multi-media message to a recipient comprising a dialog between at least two animated entities arranged to deliver respective portions of a text message from the sender and further discloses receiving from the sender a text message comprising an indicator of a first animated entity and text associated with the first animated entity, and an indicator of a second animated entity and text associated with the second animated entity (column 9, lines 47-59), and delivering the multi-media message wherein the first animated entity delivers the text associated with the first animated entity and wherein the second animated entity delivers the text associated with the second animated entity (figure13; column 11, lines 12-24).

Referring to claim 19, the rationale for claim 17 is incorporated herein, Bickmore discloses a method for enabling a sender to create a multi-media message to a recipient and further discloses providing the sender with options to

Art Unit: 2671

control the position of each animated entity chosen within the multi-media message (column 8, lines 48-64).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bickmore et al. U. S. Patent No. 6466213 as applied to claim 17 above, and further in view of Sutton et al. U. S. Patent No. 6539354.

Referring to claim 18, the rationale for claim 17 is incorporated herein, Bickmore discloses a method for enabling a sender to create a multi-media message to a recipient but does not disclose receiving in the text message sender emoticons wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message.

Sutton et al. discloses receiving in the text message sender emoticons [emotion parameters] wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message (Figures 10-12; column 20, lines 12-31 and 47-67; column 21, lines 25-37; columns 21-22, lines 65-11).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling a sender to create a multi-media message to a recipient comprised of receiving in the text message sender emoticons to include delivering the multi-media message wherein each emoticon is associated with a most immediately preceding animated entity indicator within the text message because including emoticons in the text that has been associated with a most immediately preceding animated entity indicator allows each animated entity to visually and audibly deliver a text message using expressions that do not affect speech articulators but make the entity appear more lifelike and further allow the sender to control visual emotional expressions of the animated entities (Sutton et al., column 20, lines 4-11).

Claims 20-24 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000 in view of Mayle et al. U. S. Patent No. 6018774.

Referring to claim 20, H. Noot et al. discloses a method of enabling sender customization of an animated entity for use in delivering a multi-media message, comprised of receiving from the sender an image of an entity to be used as the animated entity (section 1.1. Overview: page 4, paragraph 6: *Faces*; page 5, paragraph 6: *External Images*; Section 3.8. Component editing: page 29, Figure 11; page 32, paragraph 9, *Load Image*), requesting the sender to mark a plurality of facial features on the entity, and receiving the facial features marked by the

Art Unit: 2671

sender (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3), computing a customized model associated with the entity (Section 1.1. The components and data files of CharToon, page 4, paragraph 1; Section 2.1. Integrated mode and Section 2.2. Arranging windows of components, page 8; Section 3.1. The principle of creating faces, pages 10-11), and saving the customized entity (Section 3.1. The principle of creating faces, page 11, paragraph 4; Section 3.6.1. Opening and saving faces, page 14, *File/Save* and *File/SaveAs*; page 15, *File/More/SaveJavaObject*, *File/More/SaveJavaObjectAs*, *File/More/SaveFaceScriptAs*, and *File/More/SaveProfileAs*), but does not disclose wherein the image received from the sender is received over the Internet or storing the customized model in a private database for restricted access by the sender.

Mayle et al. teaches receiving from the sender, over the Internet (figures 1-3; column 4, lines 9-11, 20-32, and 51-67), an image of an entity to be used as the animated entity (column 5, lines 1-1; column 7, lines 7-20; column 10, lines 35-45) and storing the customized model in a private database for restricted access by the sender (column 5, lines 19-31, 40-67 and column 6, lines 1-3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include receiving from the sender, over the Internet, an image of an entity to be used as the animated entity and storing the customized model in a private

Art Unit: 2671

database for restricted access by the sender because modifying the method to include receiving from the sender, over the Internet, an image of an entity to be used as the animated entity to allow a variety of processing steps to be performed by the server (Mayle et al., column 2, lines 1-25; columns 13-14, lines 47-9) and storing the customized model in a private database for restricted access by the sender to prevent the unauthorized use of personal images (Mayle et al., column 2, lines 48-63).

Referring to claims 21 and 22, the rationale for claim 20 above is incorporated herein, H. Noot et al., as modified above, teaches a method of enabling sender customization of an animated entity for use in delivering a multi-media message comprised of computing a customized model associated with the entity and further teaches displaying at least one facial expression to the sender of the customized model after computing a customized model associated with the entity (Section 5.1. Principle and usage of the Emotion Disc and Section 5.2. Running Emotion Disc, pages 37-38; page 68, Plate 4). H. Noot et al. Further teaches presenting the sender with an option to change a magnitude associated with each displayed facial expression (Section 4.1. Using Face Player, page 35, paragraph 3; Section 5.1. Principle and usage of the Emotion Disc, pages 37-38; Section 7.4. Emotion Disc, page 55; Section 1.7. .dsc disc file, page 64; Plate 4, page 68).

Referring to claim 23, the rationale for claim 20 above is incorporated herein, H. Noot et al., as modified above, teaches a method of enabling sender customization of an animated entity for use in delivering a multi-media message

Art Unit: 2671

and further teaches wherein requesting the sender to mark a plurality of facial features on the entity comprises requesting the user to mark facial features associated with eye corners, eye lids, nose, mouth corners, lip boundaries, and hair outline (Section 3.6.6 Operations on components, page 20, figure 4; Section 3.7.2 Types of components, pages 23-25; Section 3. Appendix: Color Plates, pages 67-68 (Plates 2.a., 2.b., 3.a. and 3.b.)).

Referring to claim 24, the rationale for claim 20 above is incorporated herein, H. Noot et al., as modified above, teaches a method of enabling sender customization of an animated entity for use in delivering a multi-media message as claimed above and further teaches presenting a proof-animated entity to the sender based on the customized model (Section 4.2.1 Integrated mode and 4.2.2 Starting Face Player from Animation Editor, page 35).

Referring to claim 27, the rationale for claim 20 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a receiver comprising receiving from the sender an image file, as claimed above, presenting the sender an option to zoom the image file (Section 3.1. The principle of creating faces with face editor, page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43; Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page 46), presenting the sender with a zoomed image file (Section 3.1. The principle of creating faces with face editor,

Art Unit: 2671

page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43; Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page 46), requesting the sender to mark features on the image file in preparation for creating an animated entity (Section 3.1. The principle of creating faces with face editor, page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43; Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page 46), and presenting the image file as an optional animated entity when the sender chooses an animated entity to deliver a multi-media message (Section 1.1. The components and data files of CharToon, page 5, paragraph 3; Section 4.1. Using Face Player, page 35; instructing face player to dump each frame as a .gif file allows an image of the entity to be provided as an option when sender is choosing an entity to deliver a multi-media message; Sections 4.2.1 Integrated mode and 4.2.2 Starting Face Player from Animation Editor, page 35; 5.2 Running Emotion Disc, page 38; 6.2.2 Seeing the animated face, page 41).

Referring to claim 28, the rationale for claim 27 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient and further discloses wherein presenting the image file as an optional animated

Art Unit: 2671

entity comprises presenting the sender with the following background choices for the selected animated entity:

(1) a predefined background, wherein the animated entity is automatically scaled to fill the frame of the window in which it is presented (H. Noot et al. Section 3.1. The principle of creating faces with Face Editor, page 10, figure 2(row 2), and page 11, paragraph 1; Section 3.5. Components, drawing order and rank, page 13, figure 3 and final paragraph; page 70, plate 13; Section 3.6.3 Global drawing operations, page 18, paragraphs 6 and 7; Section 3.6.6 Operations on components, page 19, paragraph 5, and page 21, paragraphs 8-13; Section 3.7.3 Basic components, page 26-27, final paragraph; Section 3.8. Component editing, page 31, paragraph 7: DynamicScaleSpecs, page 32, paragraphs 7-10, and pages 33-34, final paragraph);

(2) a background associated with the received image file, wherein the animated entity has the same size as in the image file (Section 3.6.2 Global drawing options, page 16, paragraph 4, i.e. the size of the background image and the animated entity are unchanged from their original size); and

(3) if the sender selects to zoom the image file, the zoomed image file as the background, wherein the animated entity is presented with the size as given in the zoomed image file (Section 3.6.2 Global drawing options, page 16, paragraph 7, i.e. if the face file is zoomed, the background scenery is zoomed as well).

Referring to claim 29, it recites the elements in claim 27 and therefore the same rejection applies.



Art Unit: 2671

Referring to claim 30, it recites the elements in claim 29 and the element numbered (1) in claim 28 and therefore the same rejections apply.

Referring to claim 31, it recites the elements in claim 30 and the element numbered (2) in claim 28 and therefore the same rejections apply.

Referring to claim 32, it recites the elements in claim 31 and the element numbered (2) in claim 28 and therefore the same rejections apply.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000 in view of Mayle et al. U. S. Patent No. 6018774 as applied to claim 20 above, and further in view of Sato et al. U. S. Patent No. 5537662.

Referring to claim 25, see the rationale for claim 20 above, which is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from a sender an image file to a server wherein the image file has a sender-assigned name (Section 3.6.1 Opening and saving faces, page 14, paragraphs 7-10), but does not teach wherein the image file contains sender-assigned gender, category, and indexing information. H. Noot et al. further teaches applying sound to accompany an animation (Section 6.8. Using sound, page 50) but does not teach presenting the sender with an

Art Unit: 2671

option to select a voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message.

Sato et al. discloses a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising wherein name (figures 34(A-C)), gender (figures 14 and 25), category (figures 9, 11-13, and 15), and indexing information (figures 21, 23, 26 and 27; column 11-12, lines 63-8, the use of a register key and part pattern numbers is indexing information) are associated with an image file and presenting the sender with an option to select a voice for the animated entity and associating the voice with the animated entity for use in delivering the multi-media message (figure 17; column 9, lines 17-54).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message from a sender to a recipient to include receiving from the sender an image of an entity to be used as the animated entity wherein the image file contains sender-assigned gender, category and indexing information as well as the sender-assigned name because modifying the method to include the use of sender-assigned gender and category information allows the server to present a choice of generic templates with these specific characteristics in order to reduce the possibly large number of generic face model templates being presented to the sender, the use of sender-assigned name and indexing information permits retrieval of the animated entities when stored in a searchable database and permits the display of personal information as well, and modifying the method to include presenting the sender with an

Art Unit: 2671

option to select a voice for the animated entity and associating the voice with the animated entity for use in delivering the multi-media message allows the sender to convey the nationality, language, sex, and age of an animated entity.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000 in view of Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No. 5537662 as applied to claim 25 above, and further in view of Grayson et al. U. S. Patent No. 5963217.

Referring to claim 26, the rationale for claim 25 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from the sender an image file having associated sender-assigned parameters and a default voice, presenting to the sender an image file and requesting the sender to mark features on the image file, as claimed above, but does not teach wherein the method includes presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message.

Grayson et al. teaches presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message (column 5, lines 46-58; columns 8-9, lines 55—2; column 9, lines 44-49).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of enabling sender customization of an animated entity for use in delivering a multi-media message to include presenting the sender with an option to modify the default voice for the animated entity and associating the selected voice with the animated entity for use in delivering the multi-media message because modifying the default voice for the animated entity to include an accent or emotions and associating the selected voice with the animated entity will allow the receiver to listen to the multi-media message without constant screening of the display and make the message much more interesting (Grayson et al., column 10, lines 23-36).

Claims 1, 2, 4- 6, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000 in view of Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No 5537662 as applied to claim 25 above, and further in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan.

Referring to claim 1, H. Noot et al. discloses a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from a sender an image file to a server, sender-assigned name, gender, category, and indexing information, presenting to the sender a choice of a generic face model template from a plurality of face model templates,

Art Unit: 2671

requesting the sender to mark feature points on the image file, presenting the sender with a preview of at least one expression associated with the marked image file, determining whether the image is acceptable, the option to redo or add features if the displayed image is not acceptable, and presenting again the image file as an optional animated entity when the sender chooses an animated entity to deliver a multi-media message, see the rationale for claims 20-22 above which are incorporated herein, but does not teach presenting to the sender both the image file and a generic template wherein the sender is instructed to mark the image file.

Ming Ouhyoung et al. discloses presenting to the sender both the image file and a generic face model template wherein the sender is instructed to mark the image file (figures 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor, page 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include presenting to the sender both the image file and a generic face model template because modifying the method to include presenting to the sender both the image file and a generic face model template would allow the sender to edit the expression on the generic face template by dragging feature points on the face image file.

Referring to claim 2, the rationale for claim 1 is incorporated herein, H. Noot et al, as modified above, teaches a method of creating an animated entity

Art Unit: 2671

for delivering a multi-media message from a sender to a recipient and further teaches wherein the indexing information relates to enabling the animated entity to be in a searchable database and wherein the category information is contained in the image file, see claim 1 above, but does not specifically teach wherein the category information relates to whether the animated entity will be generally available or only available to the sender.

Mayle et al. teaches wherein the image file is made generally available to recipients of the multi-media message for a limited time period at which point the image files will be available only to the sender (figure 2; column 5, lines 53-61; column 7, lines 7-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include wherein the category information relates to whether the animated entity will be generally available or only available to the sender because the use of category information to determine whether the animated entity will be generally available or only available to the sender by saving an animated entity in a private or public database to prevent a personalized animated entity from being used by the public while allowing the storage of more generic animated entities in a public database, thereby saving memory space.

Referring to claim 4, the rationale for claim 1 above is incorporated herein, H. Noot et al, as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient and

Art Unit: 2671

further teaches requesting the sender to mark features on the image file but does not teach wherein requesting the sender to mark features on the image file further comprises instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template.

Ming Ouhyoung et al. discloses instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template (figures 2, 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor, page 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template because modifying the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template thereby allowing the adjustment of the points of the generic facial template to the proper position during editing of the expressions.

Referring to claim 5, the rationale for claim 4 above is incorporated herein, H. Noot et al, as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising presenting the image file and the selected model template to the sender and instructing the sender to mark points on the image file corresponding

Art Unit: 2671

to highlighted points on the selected model template (H. Noot et al. Section 3.7.1 Elements of components, page 22, paragraphs 2, 3, and 4, points on the generic template are color coded) but does not specifically teach instructing sender to mark points until a threshold number of points on the image file have been marked by the sender.

Ming Ouhyoung et al. discloses instructing the sender to mark points until a threshold number of points on the image file has been marked by the sender (Section 2.1 Head model fitting, page 24).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include instructing the sender to mark feature points on the image file by indicating a corresponding point on the selected model template until a threshold number of points on the image file have been marked thereby allowing the sender to accurately model facial expressions while reducing the amount of processing time required for marking feature points.

Referring to claim 6, the rationale for claim 5 above is incorporated herein, H. Noot et al, as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising instructing the sender to mark points on the image file corresponding to highlighted points on the selected model template until a threshold number of points on the image file have been marked by the sender and further teaches presenting the sender an option to mark additional points (Section 3.8.



Art Unit: 2671

Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3), if the sender chooses to mark additional points, presenting the image file and the selected model template to the sender and instructing the sender to mark additional points on the image file corresponding to highlighted points on the selected model template until a maximum number of points on the image file have been marked by the sender (H. Noot et al., Section 3.7.6 User Defined Composite components, page 32, InsertControlPoints and InsertFixedPoints, assumes a maximum number has been reached when the sender decides to stop marking feature points) and if the sender chooses not to mark additional points, continuing to the step of presenting a preview of the image file, (see rationale for claim 1 for previewing image file).

Referring to claim 12, H. Noot et al., as modified above, teaches a method of enabling a sender to create an animated entity for delivering a multi-media message from the sender to a recipient, the animated entity arranged to deliver a text message from the sender comprising of the steps as described in claims 1 and 5, which are incorporated herein.

Referring to claim 13, the rationale for claim 12 above is incorporated herein, H. Noot et al., as modified above, teaches a method of enabling a sender to create an animated entity for delivering a multi-media message from the sender to a recipient further comprised of the steps as described in claim 1, which is incorporated herein.

Art Unit: 2671

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000, Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No 5537662 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (Int'l Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan, as applied to claim 1 above, and further in view of Grayson et al. U. S. Patent No. 5963217.

Referring to claim 3, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity, as described above, but does not teach wherein gender information relates to a default gender of a voice associated with the animated entity.

Grayson et al. teaches wherein gender information relates to a default gender of a voice associated with the animated entity (column 8-9, lines 67-5 and column 9, lines 47-49).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include wherein gender information relates to a default gender of a voice associated with the animated entity because associating a female animated entity to a default female voice or a male animated entity to a default male voice can make messages more interesting and enhances communication (Grayson et al., column 10, lines 24-36).

Art Unit: 2671

Claims 7, 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000, Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No 5537662 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan, as applied to claim 1 above, and further in view of Francini et al. U. S. Patent No. 6532011.

Referring to claims 7 and 8, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity but does not teach wherein the method of creating an animated entity further comprises presenting the sender with an option to choose textures for teeth, eyes, and a tongue wherein the chosen textures are added to the image file for use in the animated entity.

Francini et al. teaches wherein the method of creating an animated entity further comprises presenting the sender with an option to choose textures for teeth, eyes, and a tongue (figure 3) wherein the chosen textures are added to the image file for use in the animated entity (figure 9).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include presenting the sender with an option to choose textures for teeth, eyes, and a tongue wherein the chosen textures are added to the image file for use in the

Art Unit: 2671

animated entity because the option of different textures for the teeth, eyes, and tongue allow for humorous as well as realistic characteristics in animated entities.

Referring to claim 14, the rationale for claims 8 and 12 above are incorporated herein, H. Noot et al., as modified above, teaches a method of enabling a sender to create an animated entity for delivering a multi-media message from the sender to a recipient, as applied to claim 12 above, and further comprised of presenting the sender with options to modify a texture of teeth, eyes, and/or tongue (H. Noot et al., Section 3.6.6 Operations on components, page 20, figure 4; Section 3.7.3 Basic components, page 26, paragraphs 4, 7, 9, 11, and 14; Figure 11, page 29; and Section 6.5. Editing an animation, page 46 modification of animation after creation implies the ability to modify these textures).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000, Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No 5537662 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan, as applied to claim 1 above, and further in view of Shaw et al. U. S. Patent No. 6147692.

Referring to claim 9, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity, as described above, but does not teach wherein the method of creating an

Art Unit: 2671

animated entity further comprises presenting the sender with an option to choose different teeth from a group of teeth for the animated entity.

Shaw et al. teaches morphing a human face and an animal face (figures 10(A & B), 14(A-D)) but does not specifically teach choosing different teeth from a group of teeth. It would be obvious that a choice of different facial features include a choice of different types of teeth from a group of teeth be included in order to provide animal type teeth for realistic morphing of animal and human facial features.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of creating an animated entity to include presenting the sender with an the option of different types of teeth from a group of teeth allowing for humorous as well as realistic characteristics in animated entities.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000, Mayle et al. U. S. Patent No. 6018774 and Sato et al. U. S. Patent No 5537662 in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan, as applied to claim 1 above, and further in view of Burson et al. U. S. Patent No. 4276570.

Referring to claim 10, the rationale for claim 1 above is incorporated herein, Sato et al., as modified above, teaches a method of creating an animated

Art Unit: 2671

entity, as described above, but does not teach wherein the method of creating an animated entity further comprises presenting the sender with an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender.

Burson et al. teaches wherein the method of creating an animated entity further comprises presenting the sender with an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender (column 3-4, lines 66-9; column 6, lines 17-28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include wherein the method of creating an animated entity further comprises presenting the sender with an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender because an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender thereby simulating the realistic appearance of different ages in an animated entity.

Art Unit: 2671

Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. U. S. Patent No 5537662 in view of Francini et al. U. S. Patent No. 6532011 as applied to claims 1 and 12 above, and further in view of Murata U. S. Patent No. 5638502.

Referring to claims 11 and 15, the rationale for claims 1 and 12 above are incorporated respectively herein, H. Noot et al., as modified above, teaches a method of creating an animated entity, as described above, but does not teach wherein the method of creating an animated entity further comprises presenting the sender with an option to modify the appearance of weight of the animated entity and, using the chosen weight by the sender, modifying the image file to increase or decrease the appearance of weight of the animated entity according to the option chosen by the sender.

Murata teaches wherein the method of creating an animated entity further comprises presenting the sender with an option to modify the appearance of weight of the animated entity and, using the chosen weight by the sender, modifying the image file to increase or decrease the appearance of weight of the animated entity according to the option chosen by the sender (figures 17, 20, 24(elements SK8-10), 26(A-C), 27(A & B); column 19, lines 51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include wherein the method of creating an animated entity further comprises presenting the sender with an option to modify the appearance of weight of the animated entity and, using the chosen weight by the sender, modifying the image file to increase

Art Unit: 2671

or decrease the appearance of weight of the animated entity according to the option chosen by the sender because presenting the sender with an option to modify the appearance of weight of the animated entity and, using the chosen weight by the sender, modifying the image file to increase or decrease the appearance of weight of the animated entity according to the option chosen by the sender allowing for the realistic appearance of different body types in an animated entity.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to creating animated entities for use in multi-media messaging.

Rouet et al. U. S. Patent No. 5818461

Ando U. S. Patent No. 647815

Eraslan U. S. Patent No. 6381346

Kado et al. U. S. Patent No. 5995639

Gaspar et al. U. S. Patent No. 5689618

Horii U. S. Patent No. 5850463

Maloomian U. S. Patent No. 4602280

Bravomolo U. S. Patent No. 6643385

The following patents are cited to further show the state of the art with respect to sending multi-media messages.

Prevost et al. U. S. Patent No. 6384829



Art Unit: 2671

Apfel et al. U. S. Patent No. 6405225

Nitta U. S. Patent No. 5347306

The following patents are cited to further show the state of the art with respect to changing background images.

Crosby U. S. Patent No. 5113493

Minami et al. U. S. Patent No. 6215505

Squires et al. U. S. Patent No. 6417853

Non-patent literature cited to further show the state of the art with respect to animated entities.

Thorisson, Kristinn R. "ToonFace: A System for Creating and Animating Interactive Cartoon Faces." MIT Media Laboratory Learning and Common Sense Section Techniocal Report, pp 96-101, Apr. 1996

Bickmore et al., Animated Autonomous Personal Reprerentatives, ACM, International Conference on Autonomous Agents, Proceedings of the second international conference on Autonomous agents, pgs 8-15 1998

Lijun Yin, A. Basu: MPEG4 face modeling using fiducial points, IEEE: Image Processing, 1997. Proceedings., International Conference on , Volume: 1, 26-29 Oct. 1997.

Non-patent literature that was cited by the applicant, but was not considered by the examiner because it was not provided:

Pollack, "Happy in the East or Smiling in the West". New York Times. 12 August 1996.

Art Unit: 2671

Pelachaud et al., "Generating Facial Expressions for Speech": Cognitive Science. Jan. 3, 1996. Vol. 20, no: 1, pp 1-46.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta Prendergast whose telephone number is (703) 305-0730 note: number will change to (571) 272-7647 February 24<sup>th</sup>, 2005. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman can be reached on (703) 305-9798. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 note: number will change to (571) 272-7653 February 24<sup>th</sup>, 2005.

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Art Unit: 2671

RP

A handwritten signature in black ink, appearing to read "Mark Zimmerman", with a long horizontal flourish extending to the right.

MARK ZIMMERMAN  
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